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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/934,156   | 08/21/2001  | David Roth Rigney    |                     | 7387             |
| 7590   | 09/20/2006  |                      | EXAMINER            |                  |
| David R. Rigney<br>GENETWORKS Inc.<br>P.O. Box 33296<br>Austin, TX 78764 |             |                      | LY, CHEYNE D        |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2168                |                  |

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                          |                    |
|------------------------------|--------------------------|--------------------|
| <b>Office Action Summary</b> | Application No.          | Applicant(s)       |
|                              | 09/934,156               | RIGNEY, DAVID ROTH |
|                              | Examiner<br>Cheyne D. Ly | Art Unit<br>2168   |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on July 19, 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 19, 2006 has been entered.
2. Applicants' arguments have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.
3. The amendment to the specification and Declaration, filed July 19, 2006, have been entered.
4. Claim 1 is examined on the merits.

**CLAIM REJECTIONS - 35 U.S.C. § 112, SECOND PARAGRAPH**

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the limitation "the application" in step (e), line 2. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 1, step (e), lines 3-4, recites "of any of the word-setting methods..." wherein the antecedent basis for the limitation is not clear because said method has not been presented before step (e) in the claim. Further, claim 1 is not clear as to which step(s) (a-e) is implemented in "the computer program Rainbow. Clarification of the metes and bounds is required.

## **CONCLUSION**

9. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
10. Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables

applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

11. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199. The USPTO's official fax number is 571-272-8300.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (571) 272-0716. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo, can be reached on (571) 272-3642.

C. Dune Ly *1CME*

Patent Examiner

9/11/06



TIM VO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100